

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

MIGUEL RIVERA SANTIAGO  
Petitioner

**V.**

**CASE NUMBER:** CIVIL 97-1557 (RLA)

UNITED STATES OF AMERICA  
Respondent

**O R D E R**

<b>MOTION</b>	<b>RULING</b>
<p><b>Date</b> <b>Filed:</b> 5/4/05      <b>Docket #</b> 87 [X] Petitioner MIGUEL A. RIVERA SANTIAGO</p> <p><b>Title:</b> Petitioner's Motion to Vacate Sentence, Schedule Re-Sentencing Hearing in Conformity with <u>Apprendi</u>, <u>Blakely</u>, <u>Booker</u> Retroactivity Pursuant to the "Watershed Rule" Exception Pursuant <u>Teague v. Lane</u> 489 U.S. 288 (1989), for Re-Sentencing, Due Process of Law, and Any Other Remedy Pursuant to Law</p>	<p>The Court agrees with the Government in that this motion to vacate sentence pursuant to <u>Apprendi</u>, <u>Blakely</u> and <u>Booker</u> is a second successive petition the filing of which is impermissible without a certification from the Court of Appeals pursuant to 28 U.S.C. §§ 2244 and 2255.</p> <p>Accordingly, this motion is hereby TRANSFERRED to the Court of Appeals for the First Circuit pursuant to 28 U.S.C. §§ 1631. See <u>United States v Banett</u>, 178 F.3d 34, 41 note 1 (1<sup>st</sup> Cir. 1999) (transfer pursuant to 28 U.S.C. § 1631 may be preferable in some situations).</p>

July 13, 2005  
**Date**

S/Raymond L. Acosta  
**RAYMOND L. ACOSTA**  
U.S. District Judge

<b>Rec'd:</b>	<b>EOD:</b>
<b>By:</b>	<b>#</b>